

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

IN RE: '318 PATENT INFRINGEMENT)
LITIGATION) Civil Action No. 05-356-KAJ
) (consolidated)
)
)

**PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT
REGARDING ANTICIPATION UNDER 35 U.S.C. § 102**

For the reasons set forth in the Memorandum submitted herewith, Plaintiffs, Janssen Pharmaceutica, N.V., Janssen L.P, and Synaptech, Inc. (collectively, "Plaintiffs"), respectfully request that this Court enter partial summary judgment in favor of Plaintiffs and dismiss Defendants' affirmative defenses and Counterclaims regarding 35 U.S.C. § 102 anticipation. A Proposed Order consistent with this result is also submitted.

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Dated: November 17, 2006
175316.1

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ORDER

The Court has considered the November 17, 2006 Motion for Partial Summary Judgment filed Plaintiffs Janssen Pharmaceutica, N.V., Janssen, L.P., and Synaptech, Inc. (collectively, "Plaintiffs"). Having considered the matter, and good cause appearing, IT IS HEREBY ORDERED THAT the Plaintiffs' Motion is GRANTED.

Accordingly, this Court hereby dismisses Defendant Alphapharm Pty., Ltd.'s affirmative defense of anticipation under 35 U.S.C. § 102 and Second Counterclaim as it relates to anticipation under 35 U.S.C. § 102. This Court further dismisses Defendants' Barr Pharmaceutical., Inc.'s and Barr Laboratories, Inc.'s and affirmative defense of anticipation under 35 U.S.C. § 102 and First Counterclaim as it relates to anticipation under 35 U.S.C. § 102.

IT IS SO ORDERED.

Date: _____

United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of November, 2006, the attached **PLAINTIFFS'** **MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING ANTICIPATION UNDER 35 U.S.C. § 102** was served upon the below-named counsel of record at the address and in the manner indicated:

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